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John Silvasi

04/07/03 09:53 AM

To: Joann Allman/RTP/USEPA/US@EPA

cc:

Subject: to OMB: * Revised language on transport--8-hr O3 NAAQS implementation proposal

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----- Forwarded by John Silvasi/RTP/USEPA/US on 04/07/03 09:53 AM -----

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03/20/03 04:45 PM

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Subject: * Revised language on transport--8-hr O3 NAAQS implementation proposal

Hi, Amy,

Attached is our revised language on long-range transport (a "clean" version and a redline-strikeout from the 12/26/02 version).

Jeff Holmstead had redrafted the text, after which Lydia Wegman and others had made some clarifying edits. We sent those back to Jeff to ensure he didn't have any problems with them, but had not yet heard back from him. Lydia asked me to forward what we have now to you, and if Jeff provides any other revisions, we will send those to you.

I presume you'll forward this to the appropriate contacts from the other federal agencies, particularly DOE?

Thanks!



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3/19/03

8-hr O3 NAAQS Implementation Proposed Rule
Revised language on transport.

from "nutshell" summary of rule:

G. Interstate Transport

EPA recognizes that ozone and ozone precursors are often transported across state boundaries, and that interstate transport can make it difficult - or impossible - for some states to meet their attainment deadlines solely by regulating sources within their own boundaries. To address this concern, the Agency recently adopted two rules (the NOx SIP call rule and the section 126 rule) to reduce interstate ozone transport in the eastern U.S. The rules were developed based on the level of reductions needed to address transport for both the 1-hour and 8-hour standards. For both rules, the compliance date for achieving the required emission reductions is now May 31, 2004. Thus, unlike in the past, states affected by transport can develop their local implementation plans for the 8-hour ozone standard with the knowledge that the issue of interstate transport has already been addressed "up front."

The President recently proposed legislation known as the Clear Skies Act that, among other things, would further reduce regional transport of NOx (one of the ozone precursors) beyond the levels of the NOx SIP call. Although these reductions would make it easier for many nonattainment areas to meet the 8-hour standard, the Agency has not completed an assessment of whether such reductions are warranted under the transport provisions of the Act. The Agency intends to investigate the extent, severity and sources of interstate ozone transport that will exist after the existing NOx SIP call rule is implemented in 2004. The Agency believes that any additional requirements for reducing the transport of ozone or ozone precursors should be considered along with the need to reduce interstate pollution transport that contributes to unhealthy levels of PM_{2.5} in downwind areas. Under this approach, any effort to further reduce interstate ozone transport would be accomplished through legislation such as Clear Skies or through a separate rulemaking, not through the 8-hour ozone implementation rule.

From full proposal:

G. How will EPA address long-range transport of ground-level ozone and its precursors when implementing the 8-hour ozone standard?

1. Background.

Although much progress has been made over the last decade to improve air quality, many States contain areas that have yet to

attain the 1-hour ozone standard and/or that are violating the 8-hour ozone standard. Some of these areas are significantly affected by interstate ozone transport from upwind areas. Wind currents can transport ozone and NO_x, a primary precursor to ozone, long distances, affecting multiple States downwind of a source area. The EPA recognizes that this type of interstate transport can make it difficult - or impossible - for some states to meet their attainment deadlines solely by regulating sources within their own boundaries.

The 1990 Amendments to the CAA reflect Congress' awareness that ozone is a regional, and not solely a local, problem. Section 110(a)(2)(D) provides an important tool for addressing the problem of transport. It provides that a SIP must contain adequate provisions to prohibit sources in a state from emitting air pollutants in amounts that contribute significantly to nonattainment, or interfere with maintenance, in one or more downwind States. Section 110(k)(5) authorizes EPA to find that a SIP is substantially inadequate to meet any CAA requirement, including the requirements of section 110(a)(2)(d). If EPA makes such a finding, it must require the State to submit, within a specified period, a SIP revision to correct the inadequacy. The CAA further addresses interstate transport of pollution in section 126, which authorizes any state to petition EPA for a finding designed to protect the State from significant upwind sources of air pollutants from other states.

In the past several years, EPA has conducted two rulemakings to control interstate ozone transport in the eastern U.S. In 1998, EPA issued the NO_x SIP Call, which requires certain States in the eastern U.S. to meet statewide NO_x emissions budgets (63 FR 57356, October 27, 1998.) State programs to implement the rule have focused on reducing emissions from electric power generators and large industrial emitters. In addition, in response to petitions submitted by several northeastern States under section 126, EPA issued a separate rule (usually known as the Section 126 Rule) to establish Federal control requirements for certain electric power generators and industrial boilers and turbines in upwind States (64 FR 28250, May 25, 1999 and 65 FR 2674, January 18, 2000). For both rules, the compliance date for achieving the required NO_x reductions is May 31, 2004. These two transport rules overlap considerably, with the NO_x SIP Call being the broader action affecting more States. All the States affected by the Section 126 Rule are covered by the NO_x SIP Call. Therefore, EPA coordinated the two rulemakings and established a mechanism under which the Section 126 Rule would be withdrawn for sources in a state where EPA has approved a SIP meeting the NO_x SIP Call.¹

¹As a result of court actions, certain circumstances upon which the Section 126 Rule withdrawal provision was

Significantly, in both the NO_x SIP Call and the Section 126 Rule, EPA made determinations of whether upwind sources are significantly contributing to downwind nonattainment problems under both the 1-hour and 8-hour ozone standards. In the final SIP call rule, EPA determined that the same level of reductions was needed to address transport for both the 1-hour and 8-hour standards.² Thus, unlike in the past, states affected by transport can develop their new ozone implementation plans with the knowledge that the issue of interstate transport has already been addressed "up front." This approach will provide these states with certainty that they will benefit from substantial emission reductions from upwind sources and give them significantly improved boundary conditions that they can rely on as they work to identify additional emission reductions they will need to include in a local area's attainment SIP.

In providing their views to EPA on the 8-hour ozone implementation rule, however, the Ozone Transport Commission (OTC) and other State commenters have argued that the NO_x SIP Call and the Section 126 rule are not fully adequate. In their view, additional steps are needed to reduce interstate transport of ozone and NO_x to assist downwind areas in meeting the 8-hour ozone standard. In particular, these commenters have expressed continued concern about upwind emissions from power plants and other major sources and transported pollution from upwind cities.

2. The EPA's Anticipated Approach.

The EPA agrees that transport of ozone and its precursors should be dealt with "up front." As described above, EPA has already taken two actions to define what States within the SIP

based have changed. The compliance dates for the Section 126 Rule and the NO_x SIP Call have been delayed and the NO_x SIP Call has been divided into two phases. The EPA is currently conducting a rulemaking to update the withdrawal provision so that it will operate appropriately under these new circumstances.

²The Agency stayed the 8-hour basis for both rules in response to the extensive and extended litigation that occurred concerning the establishment of the 8-hour ozone standard.[Cite] Recently, however, the Administrator signed a final rule on the UV-B issue and reaffirmed the 8-hour ozone standard (68 FR 614 (January 6, 2003)), which was remanded to EPA in ATA I, 175 F.3d 1027. Having now reaffirmed the 8-hour standard, the Agency plans to take action in the near future to reinstate the 8-hour bases for both the NO_x SIP Call and the Section 126 Rule. Such action would provide the initial basis for dealing with ozone transport as part of the implementation of the 8-hour standard.

call region must do to address the transport of ozone and NO_x for purposes of the 8-hour standard.

The Agency also notes, however, that the President recently proposed legislation known as the Clear Skies Act that, among other things, would achieve significant reductions - beyond those required under the SIP Call and the Section 126 Rule - in the regional transport of NO_x an ozone precursor. Detailed modeling by EPA for the year 2010 shows that the 2008 Phase I NO_x limits in the Clear Skies Act would reduce maximum 8-hour ozone levels in many parts of the eastern U.S., including a number of areas likely to be designated nonattainment for the 8-hour standard. The modeling results are available on the web at www.epa.gov/clearskies.

Although the additional NO_x reductions required under Clear Skies would make it easier for many nonattainment areas to meet the 8-hour standard, the Agency has not completed an assessment of whether such reductions are warranted under the transport provisions of the Act. The EPA intends to investigate the extent, severity and sources of interstate ozone transport that will exist after the NO_x SIP Call and the Section 126 rule are implemented in 2004. The Agency believes that any additional requirements for reducing the transport of ozone or ozone precursors should be considered along with the need to reduce interstate pollution transport that contributes to unhealthy levels of PM_{2.5} in downwind areas. Under this approach, any additional reduction in ozone transport would be accomplished through legislation such as Clear Skies or through a separate rulemaking, not through the 8-hour ozone implementation rule.

As described in the Federal Register actions for the NO_x SIP call and section 126 rulemakings, EPA believes that it has authority to define what States need to do to address interstate transport in advance of decisions regarding the designation of areas and in advance of the submission of SIPs to comply with the section 110 requirements for the 8-hour ozone standard. The EPA may consider the issue of ozone transport in the context of a possible transport rulemaking that could address the transport of PM_{2.5} precursors, including NO_x, since NO_x affects ambient concentrations of both PM_{2.5} and ozone. If such a rulemaking is undertaken and analysis of ozone transport warrants, the rule could include further requirements beyond the existing NO_x SIP Call. Addressing PM_{2.5} and ozone transport together in such a rulemaking would provide an opportunity for the coordination of control efforts to help achieve attainment of both the PM_{2.5} and 8-hour ozone standards, both of which will rely in part on control of pollutants transported across State boundaries. The EPA would welcome input from States and other interested parties in such a rulemaking--if undertaken--as to how to deal with ozone transport effectively and equitably and on the technical and other issues that will have to be confronted as part of an evaluation of what further steps should be taken beyond the

existing NO_x SIP Call to deal with ozone transport.

3. Other Concerns about Transport.

The EPA realizes that even if it were to pursue a new national transport rule, attainment demonstrations for some areas would continue to be complicated by the effects of ozone and transport from upwind sources and other nonattainment areas in cases where upwind source controls are scheduled for implementation after the downwind area's attainment date (e.g., 2007 attainment date).

Downwind areas could be in one of two situations. In the first situation, an area might be receiving such high levels of transported ozone or ozone precursors that even if it reduced its emissions dramatically (e.g., totally eliminated its own emissions), the incoming ozone and precursors would be sufficient to continue to cause violations of the standard beyond the applicable attainment date. In the second situation, the area might be able to achieve additional local reductions sufficient to demonstrate attainment. In this second case, the question arises as to whether it is equitable to require those reductions or to allow more time for the reductions in the "upwind" area to take place.³

The EPA solicits comment on how to address this issue. The EPA believes that a subpart 1 area could be granted a later attainment date if warranted considering transport. For areas classified under subpart 2, the statute provides no express relief for these situations. The area does have the option of requesting to be classified to the next higher classification. Thus, where the demonstration of attainment is complicated by transport between two areas of different classifications, the State is still responsible for developing and submitting demonstrations which show that the standard will be attained by the applicable date. In other words, the State must provide for sufficient emissions reductions on a schedule that will ensure attainment in its area.

One approach would be for States to work together in a collaborative process to perform the necessary analyses to identify appropriate controls that provide for attainment

³The CAA's requirement for reasonably available control measures (RACM) in section 172(c)(1) does require the SIP to include RACM; EPA has noted in policy elsewhere that a measure is RACM if it is technologically and economically feasible and if it would advance the attainment date. Thus, if there are measures available in the nonattainment area that would advance the attainment date--even if attainment is likely at a later date due to upwind emission reductions that occur later--then the CAA requires such measures to be in the SIP.

throughout the multi-State area. The EPA believes that the wording in sections 172(c)(1) and 182(b)(1)(A)(i) require the State to develop a plan providing such emissions reductions. States working together in a collaborative process could perform a comprehensive assessment of the impacts of all control measures being implemented in both the local and upwind areas. The analysis may show the extent to which the downwind area is dependent on upwind strategies while fully meeting its own requirements associated with its classification. And upwind areas may provide a comprehensive assessment of the impacts of all control measures being implemented on the downwind areas.

4. Other Options Considered.

The EPA considered a number of other options and approaches for addressing transport. These other options that were considered but are not being proposed are described in a separate document available in the docket.⁴

⁴Additional Options Considered for "Proposed Rule to Implement the 8-Hour Ozone National Ambient Air Quality Standard." U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Research Triangle Park, NC. March 2003.

12/26/033/19/03

8-hr O3 NAAQS Implementation Proposed Rule
Revised language on transport.

from "nutshell" summary of rule:

G. Interstate Transport

EPA recognizes that ozone and ozone precursors are often transported across state boundaries, and that interstate transport can make it difficult - or impossible - for some states to meet their attainment deadlines solely by regulating sources within their own boundaries. To address this concern, the Agency recently adopted two rules (the NOx SIP call rule and the section 126 rule) to reduce interstate ozone transport in the eastern U.S. The rules were developed based on the level of reductions needed to address transport for both the 1-hour and 8-hour standards. For both rules, the compliance date for achieving the required emission reductions is now May 31, 2004. Thus, unlike in the past, states affected by transport can develop their local implementation plans for the 8-hour ozone standard with the knowledge that the issue of interstate transport has already been addressed "up front."

The President recently proposed legislation known as the Clear Skies Act that, among other things, would further reduce regional transport of NOx (one of the ozone precursors) beyond the levels of the NOx SIP call. Although these reductions would make it easier for many nonattainment areas to meet the 8-hour standard, the Agency has not completed an assessment of whether such reductions are warranted under the transport provisions of the Act. The Agency intends to investigate the extent, severity and sources of interstate ozone transport that will exist after the existing NOx SIP call rule is implemented in 2004. The Agency believes that any additional requirements for reducing the transport of ozone or ozone precursors should be considered along with the need to reduce interstate pollution transport that contributes to unhealthy levels of PM_{2.5} in downwind areas. Under this approach, any effort to further reduce interstate ozone transport would be accomplished through legislation such as Clear Skies or through a separate rulemaking, not through the 8-hour ozone implementation rule.

From full proposal:

G. How will EPA address long-range transport of ground-level ozone and its precursors when implementing the 8-hour ozone standard?

1. Background.

Although much progress has been made over the last decade to improve air quality, many States contain areas that have yet to

attain the 1-hour ozone standard and/or that are violating the 8-hour ozone standard. Some of these areas are significantly affected by interstate ozone transport from upwind areas. Wind currents can transport ozone and NO_x, a primary precursor to ozone, long distances, affecting multiple States downwind of a source area. ~~Legal and equity issues result when failure to control upwind sources creates a need for greater emissions reductions from local sources in order for a downwind area to achieve the ambient air quality standard. In some cases, a downwind area may not be able to attain the ozone standard until the transported emissions are controlled.~~ The EPA recognizes that this type of interstate transport can make it difficult - or impossible - for some states to meet their attainment deadlines solely by regulating sources within their own boundaries.

The 1990 Amendments to the CAA reflect ~~general~~ Congress' awareness ~~by Congress~~ that ozone is a regional, and not ~~merely~~ solely a local, problem. Section 110(a)(2)(D) provides ~~one of the most~~ an important tools for addressing the problem of transport. ~~This provision~~ It provides that a SIP must contain adequate provisions ~~prohibiting the State's to prohibit~~ sources in a state from emitting air pollutants in amounts that ~~will~~ contribute significantly to nonattainment, or interfere with maintenance, in one or more downwind States. Section 110(k)(5) authorizes EPA to find that a SIP is substantially inadequate to meet any CAA requirement, including the requirements of section 110(a)(2)(d). If EPA makes such a finding, it must require the State to submit, within a specified period, a SIP revision to correct the inadequacy. The CAA further addresses interstate transport of pollution in section 126, which authorizes ~~each~~ any state to petition EPA for a finding designed to protect ~~that~~ the State from significant upwind sources of air pollutants from other states.

In the past several years, EPA has conducted two rulemakings to control interstate ozone transport in the eastern U.S. In 1998, EPA issued the NO_x SIP Call, which requires certain States in the eastern U.S. to meet ~~Statewide~~ Statewide NO_x emissions budgets (63 FR 57356, October 27, 1998.) State programs to implement the rule have focused on reducing emissions from electric power generators and large industrial emitters. In addition, in response to petitions submitted by several northeastern States under section 126 ~~of the CAA~~, EPA issued a separate rule (usually known as the Section 126 Rule which) to ~~established~~ establish Federal control requirements for certain electric power generators and industrial boilers and turbines in upwind States (64 FR 28250, May 25, 1999 and 65 FR 2674, January 18, 2000). For both rules, the compliance date for achieving the required NO_x reductions is May 31, 2004. These two transport rules overlap considerably, with the NO_x SIP Call being the broader action affecting more States. All ~~of the~~ States affected by the Section 126 Rule are covered by the NO_x SIP Call. Therefore, EPA coordinated the two

rulemakings and established a mechanism ~~in~~under which the Section 126 Rule ~~whereby that rule~~ would be withdrawn for sources in a State where EPA has approved a SIP meeting the NO_x SIP Call.¹
~~in~~

Significantly, in both the NO_x SIP Call and the Section 126 Rule, EPA made determinations of whether upwind sources are significantly contributing to downwind nonattainment problems under both the 1-hour and 8-hour ozone standards. In the final SIP call rule, EPA determined that the same level of reductions was needed to address transport for both the 1-hour and 8-hour standards. ~~Under the Section 126 Rule, more States and sources are affected based on the 8-hour standard than the 1-hour standard. The EPA, however, stayed the 8-hour basis for both rules in response to the extensive and extended litigation that occurred concerning the establishment of the 8-hour ozone standard. The EPA will be addressing the 8-hour stays since on December 18, 2002, the Administrator has signed final rulemaking on the UV-B issue, which was remanded to EPA in ATA I, 175 F.3d 1027. The EPA anticipates it will take action to reinstate the 8-hour bases for both the NO_x SIP Call and the Section 126 Rule. These would then provide the initial basis for dealing with ozone transport as part of the~~² Thus, unlike in the past, states affected by transport can develop their new ozone implementation of the 8-hour standard.

plans with the knowledge that the issue of interstate transport has already been addressed "up front." This approach will provide these states with certainty that they will benefit

¹As a result of court actions, certain circumstances upon which the Section 126 Rule withdrawal provision was based have changed. The compliance dates for the Section 126 Rule and the NO_x SIP Call have been delayed and the NO_x SIP Call has been divided into two phases. The EPA is currently conducting a rulemaking to update the withdrawal provision so that it will operate appropriately under these new circumstances.

²The Agency stayed the 8-hour basis for both rules in response to the extensive and extended litigation that occurred concerning the establishment of the 8-hour ozone standard.[Cite] Recently, however, the Administrator signed a final rule on the UV-B issue and reaffirmed the 8-hour ozone standard (68 FR 614 (January 6, 2003)), which was remanded to EPA in ATA I, 175 F.3d 1027. Having now reaffirmed the 8-hour standard, the Agency plans to take action in the near future to reinstate the 8-hour bases for both the NO_x SIP Call and the Section 126 Rule. Such action would provide the initial basis for dealing with ozone transport as part of the implementation of the 8-hour standard.

from substantial emission reductions from upwind sources and give them significantly improved boundary conditions that they can rely on as they work to identify additional emission reductions they will need to include in a local area's attainment SIP.

In providing their views to EPA on the 8-hour ozone implementation rule, however, the Ozone Transport Commission (OTC) and other State commenters have ~~told EPA that further argued that the NO_x SIP Call and the Section 126 rule are not fully adequate.~~ In their view, additional steps are needed to reduce interstate transport of ozone and NO_x to assist downwind areas in meeting the 8-hour ozone standard. In particular, these commenters ~~voiced~~ have expressed continued concern about upwind emissions from power plants and other major sources and transported pollution from upwind cities. These commenters have urged EPA to ensure that interstate transport of ozone and NO_x is addressed "up front," before 8-hour attainment SIPs are adopted. This approach would enable States to know what reductions will be required for purposes of reducing interstate pollution transport when they decide the quantity of emissions reductions needed and specific measures to be included in a local area's attainment SIP.

2. The EPA's Proposed Anticipated Approach.

The EPA agrees that transport of ozone and its precursors should be dealt with "up front." As described above, EPA ~~in 1998 promulgated the NO_x SIP call and took action on the section 126 petitions~~ has already taken two actions to define what States within the SIP call region must do to address the transport of ozone and NO_x for purposes of ~~both the 1-hour and 8-hour standards.~~ In response to questions raised about whether those actions were sufficient, EPA plans to conduct updated analyses to examine whether residual standard.

The Agency also notes, however, that the President recently proposed legislation known as the Clear Skies Act that, among other things, would achieve significant reductions - beyond those required under the SIP Call and the Section 126 Rule - in the regional transport of NO_x an ozone precursor. Detailed modeling by EPA for the year 2010 shows that the 2008 Phase I NO_x limits in the Clear Skies Act would reduce maximum 8-hour ozone levels in many parts of the eastern U.S., including a number of areas likely to be designated nonattainment for the 8-hour standard. The modeling results are available on the web at www.epa.gov/clearskies.

Although the additional NO_x reductions required under Clear Skies would make it easier for many nonattainment areas to meet the 8-hour standard, the Agency has not completed an assessment of whether such reductions are warranted under the transport provisions of the Act. The EPA intends to investigate the extent, severity and sources of interstate ozone transport that will exist after the NO_x SIP call is implemented will significantly contribute to nonattainment Call and the Section 126

rule are implemented in 2004. The Agency believes that any additional requirements for reducing the transport of ozone or ozone precursors should be considered along with the need to reduce interstate pollution transport that contributes to unhealthy levels of PM_{2.5} in downwind areas. If, based on these analyses, EPA determines that significant transport would still exist, EPA would requireUnder this approach, any additional reductions to address such significant transport.reduction in ozone transport would be accomplished through legislation such as Clear Skies or through a separate rulemaking, not through the 8-hour ozone implementation rule.

As described in the Federal Register actions for the NO_x SIP call and section 126 rulemakings, EPA believes that it has ~~the~~ authority to define what States need to do to address interstate transport in advance of decisions regarding the designation of areas and in advance of the submission of SIPs to comply with the section 110 requirements for the 8-hour ozone standard. The EPA ~~currently intends to~~may consider the issue of ozone transport in the context of a possible transport rulemaking ~~being initiated to that could~~ address the transport of PM_{2.5} precursors, including NO_x, since NO_x affects ambient concentrations of both PM_{2.5} and ozone. ~~As part of that~~If such a rulemaking, ~~EPA intends to conduct further~~ is undertaken and ~~analyses~~ of ozone transport ~~that warrants, the rule could result in~~include further requirements beyond the existing NO_x SIP Call. Addressing PM_{2.5} and ozone transport together in ~~that~~such a rulemaking ~~will~~would provide an opportunity for the coordination of control efforts to help achieve attainment of both the PM_{2.5} and 8-hour ozone standards, both of which will rely in part on control of pollutants transported across State boundaries. The EPA ~~expects to propose the new transport rule by December 2003 and promulgate the rule between January and June of 2005. The EPA welcomes~~ the would welcome input from States and other interested parties in ~~that rulemaking as~~such a rulemaking--if undertaken--as to how to deal with ozone transport effectively and equitably and on the technical and other issues that will have to be confronted as part of an evaluation of what further steps should be taken beyond the existing NO_x SIP Call to deal with ozone transport.

~~The EPA further notes that the proposed CSA, if enacted, would significantly reduce power generator NO_x emissions that EPA modeling shows will affect regional ozone levels after the NO_x SIP Call. The EPA modeling for the year 2010 shows that the 2008 Phase I NO_x limits on power generators in the proposed CSA would reduce maximum 8-hour ozone levels in many parts of the eastern U.S., including a number of areas likely to be designated nonattainment for the 8-hour standard. The modeling results are available on the web at www.epa.gov/clearskies.~~

~~Regardless of whether Congress enacts the CSA in a timely manner, the CAA requires States to develop SIPs that provide for attainment by deadlines in the CAA and requires States to have~~

~~implementation plans that prohibit emissions that contribute significantly to nonattainment in other States. To help implement these provisions of the CAA and achieve the objectives of clean air as expeditiously as practicable, EPA intends to address the issue of interstate transport in the context of the transport rulemaking described above.~~

3. Other Concerns about Transport.

The EPA realizes that even ~~after promulgation of if it were~~ to pursue a new national transport rule, attainment demonstrations for some areas— would continue to be complicated by the effects of ozone and transport from upwind sources and other nonattainment areas in cases where upwind source controls are scheduled for implementation after the downwind area's attainment date (e.g., 2007 attainment date).

Downwind areas could be in one of two situations. In the first situation, an area might be receiving such high levels of transported ozone or ozone precursors that even if it reduced its emissions dramatically (e.g., totally eliminated its own emissions), the incoming ozone and precursors would be sufficient to continue to cause violations of the standard beyond the applicable attainment date. In the second situation, the area might be able to achieve additional local reductions sufficient to demonstrate attainment. In this second case, the question arises as to whether it is equitable to require those reductions or to allow more time for the reductions in the "upwind" area to take place.³

The EPA solicits comment on how to address this issue. The EPA believes that a subpart 1 area could be granted a later attainment date if warranted considering transport. For areas classified under subpart 2, the statute provides no express relief for these situations. The area does have the option of requesting to be classified to the next higher classification. Thus, where the demonstration of attainment is complicated by transport between two areas of different classifications, the State is still responsible for developing and submitting demonstrations which show that the standard will be attained by the applicable date. In other words, the State must provide for sufficient emissions reductions on a schedule that will ensure attainment in its area.

³The CAA's requirement for reasonably available control measures (RACM) in section 172(c)(1) does require the SIP to include RACM; EPA has noted in policy elsewhere that a measure is RACM if it is technologically and economically feasible and if it would advance the attainment date. Thus, if there are measures available in the nonattainment area that would advance the attainment date—even if attainment is likely at a later date due to upwind emission reductions that occur later—then the CAA requires such measures to be in the SIP.

One approach would be for States to work together in a collaborative process to perform the necessary analyses to identify appropriate controls ~~which will~~that provide for attainment throughout the multi-State area. The EPA believes that the wording in sections 172(c)(1) and 182(b)(1)(A)(i) require the State to develop a plan providing such emissions reductions.— States working together in a collaborative process could perform a comprehensive assessment of the impacts of all control measures being implemented in both the local and upwind areas. The analysis may show the extent to which the downwind area is dependent on upwind strategies while fully meeting its own requirements associated with its classification. And upwind areas may provide a comprehensive assessment of the impacts of all control measures being implemented on the downwind areas.

4. Other Options Considered.

The EPA considered a number of other options and approaches for addressing transport. These other options that were considered but are not being proposed are described in a separate document available in the docket.⁴

⁴Additional Options Considered for "Proposed Rule to Implement the 8-Hour Ozone National Ambient Air Quality Standard." U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Research Triangle Park, NC. March 2003.